

107TH CONGRESS } 2d Session }	HOUSE OF REPRESENTATIVES	{ REPORT 107—
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IMPROVING ACCESS TO LONG-TERM CARE ACT OF 2002

JUNE , 2002.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means,
submitted the following

R E P O R T

together with

_____ VIEWS

[To accompany H.R. 4946]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4946) to amend the Internal Revenue Code to provide health care incentives related to long-term care, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) **SHORT TITLE.**—This Act may be cited as the “Improving Access to Long-Term Care Act of 2002”.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. DEDUCTION FOR PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) **IN GENERAL.**—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new subsection:

“SEC. 223. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

“(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year by the taxpayer for coverage for the taxpayer and the spouse and dependents of the taxpayer.

“(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

“For taxable years beginning in calendar year—	The applicable percentage is—	
2003, 2004, and 2005	25	
2006 and 2007	30	
2008 and 2009	35	
2010 and 2011	40	
2012 and thereafter	50.	

“(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

“(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds \$20,000 (twice the preceding dollar amount, as adjusted under paragraph (2), in the case of a joint return) the amount which would (but for this subsection) be allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowed as such excess bears to \$20,000 (\$40,000 in the case of a joint return).

“(2) ADJUSTMENTS FOR INFLATION.—

“(A) IN GENERAL.—In the case of a taxable year beginning after December 31, 2003, the first \$20,000 amount contained in paragraph (1) shall be increased by an amount equal to—

- “(i) such dollar amount, multiplied by
- “(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2002’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of \$1,000, such amount shall be rounded to the nearest multiple of \$1,000 (or if such amount is a multiple of \$500, such amount shall be rounded to the next highest multiple of \$500).

“(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of paragraph (1), the term ‘modified adjusted gross income’ means adjusted gross income determined—

- “(A) without regard to this section and sections 911, 931, and 933, and
- “(B) after application of sections 86, 135, 137, 219, 221, 222, and 469.

“(d) LIMITATION BASED ON SUBSIDIZED COVERAGE.—

“(1) IN GENERAL.—Subsection (a) shall not apply to premiums paid for coverage of any individual for any calendar month if—

“(A) for such month such individual is covered by any insurance which is advertised, marketed, or offered as long-term care insurance under any health plan maintained by any employer of the taxpayer or of the taxpayer’s spouse, and

“(B) 50 percent or more of the cost of any such coverage (determined under section 4980B) for such month is paid or incurred by the employer.

“(2) PLANS MAINTAINED BY CERTAIN EMPLOYERS.—A health plan which is not otherwise described in paragraph (1)(A) shall be treated as described in such paragraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

“(e) COORDINATION WITH OTHER DEDUCTIONS.—Any amount taken into account under subsection (a) shall not be taken into account in computing the amount allowable as a deduction under section 162(l) or 213(a).

“(f) MARRIED COUPLES MUST FILE JOINT RETURN.—

“(1) IN GENERAL.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer’s spouse file a joint return for the taxable year.

“(2) MARITAL STATUS.—For purposes of paragraph (1), marital status shall be determined in accordance with section 7703.

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.”.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES.—Subsection (a) of section 62 is amended by inserting after paragraph (18) the following new item:

“(19) PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The deduction allowed by section 223.”.

(c) CONFORMING AMENDMENTS.—

(1) Sections 86(b)(2)(A), 135(c)(4)(A), 137(b)(3)(A), 219(g)(3)(A)(ii), and 221(b)(2)(C)(i) are each amended by inserting “223,” after “222,”.

(2) Section 222(b)(2)(C)(i) is amended by inserting “223,” before “911”.

(3) Section 469(i)(3)(F)(iii) is amended by striking “and 222” and inserting “222, and 223”.

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

“Sec. 223. Premiums on qualified long-term care insurance contracts.

“Sec. 224. Cross reference.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 3. ADDITIONAL PERSONAL EXEMPTION FOR DEPENDENTS WITH LONG-TERM CARE NEEDS IN TAXPAYER'S HOME.

(a) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

“(d) ADDITIONAL EXEMPTION FOR DEPENDENTS WITH LONG-TERM CARE NEEDS IN TAXPAYER'S HOME.—

“(1) IN GENERAL.—Except as provided in paragraph (2), an exemption of the exemption amount for each qualified family member of the taxpayer.

“(2) PHASE-IN.—In the case of taxable years beginning in calendar years before 2012, the amount of the exemption provided under paragraph (1) shall not exceed the applicable limitation amount determined in accordance with the following table:

“For taxable years beginning in calendar year—	The applicable limitation amount is—	
2003 and 2004		\$500
2005 and 2006		1,000
2007 and 2008		1,500
2009 and 2010		2,000
2011		2,500.

“(3) QUALIFIED FAMILY MEMBER.—For purposes of this subsection, the term ‘qualified family member’ means, with respect to any taxable year, any individual—

“(A) who is—

“(i) the spouse of the taxpayer, or

“(ii) a dependent of the taxpayer with respect to whom the taxpayer is entitled to an exemption under subsection (c),

“(B) who is an individual with long-term care needs during any portion of the taxable year, and

“(C) other than an individual described in section 152(a)(9), who, for more than half of such year, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

“(4) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—For purposes of this subsection, the term ‘individual with long-term care needs’ means, with respect to any taxable year, an individual who has been certified, during the 39½-month period ending on the due date (without extensions) for filing the return of tax for the taxable year (or such other period as the Secretary prescribes), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being, for a period which is at least 180 consecutive days—

“(A) an individual who is unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

“(B) an individual who requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

“(5) IDENTIFICATION REQUIREMENT.—No exemption shall be allowed under this subsection to a taxpayer with respect to any qualified family member unless the taxpayer includes, on the return of tax for the taxable year, the name

and taxpayer identification of the physician certifying such member. In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

“(6) SPECIAL RULES.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this subsection.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1(f)(6)(A) is amended by striking “151(d)(4)” and inserting “151(e)(4)”.

(2) Section 1(f)(6)(B) is amended by striking “151(d)(4)(A)” and inserting “151(e)(4)(A)”.

(3) Section 3402(f)(1)(A) is amended by striking “151(d)(2)” and inserting “151(e)(2)”.

(4) Section 3402(r)(2)(B) is amended by striking “151(d)” and inserting “151(e)”.

(5) Section 6012(a)(1)(D)(ii) is amended—

(A) by striking “151(d)” and inserting “151(e)”, and

(B) by striking “151(d)(2)” and inserting “151(e)(2)”.

(6) Section 6013(b)(3)(A) is amended by striking “151(d)” and inserting “151(e)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 4. EXPANSION OF HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 45C(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(C) TREATMENT OF CERTAIN EXPENSES INCURRED BEFORE DESIGNATION.—For purposes of subparagraph (A)(ii)(I), if a drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act not later than the due date (including extensions) for filing the return of tax under this subtitle for the taxable year in which the application for such designation of such drug was filed, such drug shall be treated as having been designated on the date that such application was filed.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses incurred after the date of the enactment of this Act.

SEC. 5. VACCINE TAX TO APPLY TO HEPATITIS A VACCINE.

(a) IN GENERAL.—Paragraph (1) of section 4132(a) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

“(I) Any vaccine against hepatitis A.”

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by subsection (a) shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 6. ADJUSTMENT OF EMPLOYER CONTRIBUTIONS TO COMBINED BENEFIT FUND TO REFLECT MEDICARE PRESCRIPTION DRUG SUBSIDY PAYMENTS.

(a) IN GENERAL.—Section 9704(b) of the Internal Revenue Code of 1986 (relating to health benefit premium) is amended by adding at the end the following new paragraph:

“(4) ADJUSTMENTS FOR MEDICARE PRESCRIPTION DRUG SUBSIDIES.—The trustees of the Combined Fund shall decrease the per beneficiary premium for each plan year in which a subsidy payment is provided to it under section 1860H of the Social Security Act by the amount which would place the Combined Fund in the same financial position as if such subsidy payment had not been received.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of the Medicare Modernization and Prescription Drug Act of 2002.

SEC. 7. ELIGIBILITY FOR ARCHER MSA'S EXTENDED TO ACCOUNT HOLDERS OF MEDICARE+CHOICE MSA'S.

(a) IN GENERAL.—Subparagraph (B) of section 220(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

“(iii) MEDICARE+CHOICE MSA’S.—In the case of an individual who is covered under an MSA plan (as defined in section 1859(b)(3) of the Social Security Act) which such individual elected under section 1851(a)(2)(B) of such Act—

“(I) such plan shall be treated as a high deductible health plan for purposes of this section,

“(II) subsection (b)(2)(A) shall be applied by substituting ‘100 percent’ for ‘65 percent’ with respect to such individual,

“(III) with respect to such individual, the limitation under subsection (d)(1)(A)(ii) shall be 100 percent of the highest annual deductible limitation under section 1859(b)(3)(B) of the Social Security Act,

“(IV) paragraphs (4), (5), and (7) of subsection (b) and paragraph (1)(A)(iii) of this subsection shall not apply with respect to such individual, and

“(V) the limitation which would (but for this subclause) apply under subsection (b)(1) with respect to such individual for any taxable year shall be reduced (but not below zero) by the amount which would (but for subsection 106(b)) be includible in such individual’s gross income for the taxable year.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.